

**CLARK COUNTY
DEPARTMENT OF COMMUNITY DEVELOPMENT
DEVELOPMENT SERVICES**

**STAFF ANALYSIS
& RECOMMENDATION**

HEARING DATE:
December 10, 2009

DEVELOPMENT NAME:
SKYVIEW HEIGHTS EAST

CASE NUMBERS:
PLD2009-00038, SEP2009-00063, ,
HAB2009-00051

TYPE III DEVELOPMENT & ENVIRONMENTAL REVIEW, STAFF REPORT & RECOMMENDATION

Form DS1402 PLD



Project Name: SKYVIEW HEIGHTS EAST

Case Numbers: PLD2009-00038; SEP2009-00063;
HAB2009-00051

Location: 2405 NE 144th Street

Request: Approval to subdivide a 1.43 acre parcel located in the Single-family Residential (R1-7.5) zone into 10 lots using Tier II infill standards.

Applicants: Spencer & Gina Kinman
PO Box 3127
Tualatin, OR 97062
(503)638-6312
spencergina@comcast.net

Contact Person: Travis Johnson
1014 Franklin Street, Atrium Suite
Vancouver, WA 98660
(360)944-6519; (360)944-6539 fax
travis@plsengineering.com

Property Owners: Spencer & Gina Kinman Darell & Lorna Sager
PO Box 3127 11037 NE Glisan Street
Tualatin, OR 97062 Portland, OR 97220

RECOMMENDATION

Approval, subject to Conditions

Team Leader's Initials: MS **Date Issued: November 25, 2009**

Public Hearing Date: December 10, 2009

County Review Staff:

	<u>Name</u>	<u>Phone</u> (360) 397- 2375 Ext.	<u>E-mail Address</u>
Planner:	Alan Boguslawski	4921	Alan.boguslawski@clark.wa.gov
Engineer: (Trans. & Stormwater)	David Bottamini PE	4881	David.bottamini@clark.wa.gov
Engineer: (Trans. Concurrency)	David Jardin	4354	David.jardin@clark.wa.gov
Manager:	Michael Butts	4137	Michael.butts@clark.wa.gov
Engineering Supervisor: (Trans. & Stormwater)	Sue Stepan PE	4064	Sue.stepan@clark.wa.gov
Engineering Supervisor: (Trans. Concurrency)	Steve Schulte PE	4017	Steve.schulte@clark.wa.gov
Fire Marshal:	Tom Scott	3323	Tom.scott@clark.wa.gov

Comp Plan Designation: Urban Low Density Residential

Parcel Number(s): Tax lot 1/12 (117895-120) located in the SE ¼ of Section 23, Township 3 North, Range 1 East of the Willamette Meridian.

Applicable Laws:

Clark County Code 15.12 (Fire Prevention); Title 24 (Public Health); 40.220.010 (Single-Family Residential Districts); 40.260.110 (Residential Infill); 40.350 (Transportation); 40.370.010 (Sewer); 40.370.020 (Water Supply); 40.380 (Stormwater and Erosion Control); 40.440. (Habitat Conservation); 40.500.010 (Procedures); 40.510.030 (Type III Process); 40.540.040 (Subdivisions); 40.570 (SEPA); 40.610 & 40.620 (Impact Fees); and RCW 58.17 (State Platting Laws).

Neighborhood Association/Contact:

Fairgrounds Neighborhood Association
Bridget Schwarz, President
2110 NW 179th St
Ridgefield, WA 98642
(360) 573-5873; E-mail: bridget@bridge-i-t.com

Vesting:

An application is reviewed against the subdivision, zoning, transportation, stormwater and other land development codes in effect at the time a fully complete application for preliminary approval is submitted. If a pre-application conference is required, the application shall earlier contingently vest on the date the fully complete pre-application is filed. Contingent vesting requires that a fully complete application for substantially the same proposal is filed within 180 calendar days of the date the county issues its pre-application conference report.

A pre-application conference on this matter was held on May 7, 2009. The pre-application was determined to be contingently vested as of April 10, 2009, the date the pre-application was submitted.

The fully complete application was submitted on September 11, 2009, and determined to be fully complete on September 24, 2009. Given these facts the application is vested on April 10, 2009.

Time Limits:

The application was determined to be fully complete on September 24, 2009 (see Exhibit #8). Therefore, the County Code requirement for issuing a decision within 92 days lapses on December 25, 2009. The State requirement for issuing a decision within 120 calendar days lapses on January 22, 2010.

Public Notice:

Notice of application, SEPA determination, and public hearing was mailed to the applicant, the Fairgrounds Neighborhood Association, SEPA agencies, and owners of property located within 300 feet of the site on October 8, 2009. One sign was posted on the subject property and two within the vicinity on November 25, 2009.

Public Comments:

In response to the public notice, the county received two comment letters, as follows:

- a. Received on October 13, 2009 from Southwest Clean Air Agency (Exhibit #11). The SWCAA letter cites asbestos inspection regulations that apply to demolition or renovation of existing structures. It also states that construction activities have the potential to generate dust nuisances, which are prohibited. Dust abatement measures must be employed as necessary during construction. An Air Discharge Permit is required for any proposed installation or modification that creates any new or increased source of air contaminants.

Staff Response

The proposal involves the demolition or removal of an existing dwelling and accessory structures. The applicant must obtain approval of a Demolition Permit from the Clark County Building Department prior to demolishing any existing structures (see Condition B-1). The demolition permit process will ensure that the applicant has filed a Notification of Demolition with the SWCAA.

Dust abatement measures are required during construction. The applicant has been provided with a copy of the SWCAA letter and is separately responsible for compliance with any agency requirements. Compliance with the county's Stormwater and Erosion Control Ordinance will mitigate or prevent impacts from dust.

- b. Received on October 23, 2009 from the Washington Department of Ecology (Exhibit #12). The DOE letter states that there are two known contaminated sites within a half mile of the project site, and that, if contamination is discovered at the site during development, it must be reported to Ecology's Southwest Regional Office.

Demolition materials are considered solid waste, requiring a permit from the Health Department for use as fill. Hazardous materials must be removed from structures prior to demolition and properly disposed. Use of salvaged materials and recycling is encouraged, as are green building principles.

The letter also cites state water quality regulations and states that erosion control measures must be in place prior to any clearing, grading, or construction. It cites recommended measures to prevent contamination of surface water by erosion and sediment-laden runoff. It also advises that construction debris shall not cause water quality degradation and provides guidelines for identifying clearing limits, stabilizing denuded areas, and preventing tracking of sediment by construction vehicles. An NPDES permit is required if the project will disturb one or more acres of soil surface area and discharge stormwater to surface waters or a storm sewer. The letter provides contact and application information.

Staff Response

The applicant has been provided with a copy of the DOE letter and is separately responsible for compliance with all state and federal regulations. Compliance with the county Stormwater and Erosion Control ordinance will prevent adverse impacts off site. The county will review and monitor implementation of the applicant's erosion control plan. Erosion control measures will be monitored by county inspection staff during construction of the subdivision.

Project Overview

The site is a 1.43 acre parcel proposed to be divided into 10 lots averaging 6,200 square feet, in accordance with infill standards. Although the county's infill ordinance was repealed by the Board of County Commissioners in June, 2009, this application is vested prior to that date.

The property is mostly forested and contains an existing dwelling and two accessory structures. All existing structures are proposed to be removed for development of the site. The topography of the site is gently sloping from northeast to southwest.

The site is bounded on the north by NE 144th Street, an urban neighborhood circulator. The parcel has an existing driveway on NE 144th Street, which will be closed in favor of providing access to the proposed lots from a private road (NE 24th Court) to be constructed within an existing easement abutting the west parcel boundary. NE 24th Court is to be constructed in conjunction with a concurrent application for a 12-lot subdivision on the westerly-abutting parcel.

The surrounding properties all contain existing single-family dwellings.

The site is located within the Vancouver School District, Fire District #6, and Park District #10. Public water and sewer utilities are provided by Clark Public Utilities and Clark Regional Wastewater District, respectively.

Surrounding uses and zoning are as indicated along with those of the site in the following table:

Compass	Comp Plan	Zoning	Current Land Use
Site	Urban Low Density Residential	Single-Family Residential (R1-7.5)	Residential
North	Urban Low Density Residential	Single-Family Residential (R1-7.5)	Residential
West	Urban Low Density Residential	Single-Family Residential (R1-7.5)	Residential
South	Urban Low Density Residential	Single-Family Residential (R1-7.5)	Residential
East	Urban Low Density Residential	Single-Family Residential (R1-7.5)	Residential

Staff Analysis

Staff first analyzed the proposal in light of the 16 topics from the Environmental Checklist (see list below). The purpose of this analysis was to identify any potential adverse environmental impacts that may occur without the benefit of protection found within existing ordinances.

- | | |
|---------------------------------|--|
| 1. Earth | 9. Housing |
| 2. Air | 10. Aesthetics |
| 3. Water | 11. Light and Glare |
| 4. Plants | 12. Recreation |
| 5. Animals | 13. Historic and Cultural Preservation |
| 6. Energy and Natural Resources | 14. Transportation |
| 7. Environmental Health | 15. Public Services |
| 8. Land and Shoreline Use | 16. Utilities |

Staff then reviewed the proposal for compliance with applicable code criteria and standards in order to determine whether all potential impacts could be mitigated through application of the code.

Staff's analysis also reflects review of agency and public comments received during the comment period, and knowledge gained through a site visit.

Major Issues:

Only the major issues, errors in the development proposal, and/or justification for any conditions of approval are discussed below. Staff finds that all other aspects of this proposal not discussed below comply with the applicable code requirements.

LAND USE:

Finding 1 Infill Standards

This subdivision is proposed under Tier 2 Infill standards, in accordance with CCC 40.260.110. The site meets the infill eligibility criteria in CCC 40.260.110(B) because it does not exceed 2.5 acres and has existing urban development on more than 50% of its non-street perimeter.

The average lot area of the proposal is 6,200 square feet, which meets the Tier 2 standards for the R1-7.5 zone of a minimum 6,000 square feet. The density of the proposal is 6.99 units per acre, which is within the maximum density of 7.3 units per acre for Tier 2 developments in the R1-7.5 zone.

The infill ordinance provides for reduced front setback standards, which are a minimum of 18 feet for the garage door and 10 feet for other parts of the dwelling. The minimum rear setback for Tier 2 lots whose rear lot line abuts other parcels containing existing dwellings is 10 feet, which is the applicable rear setback for all 10 proposed lots. The minimum side setback is five feet and the minimum street side setback (applicable to Lot 1) is 10 feet, same as the normal R1-7.5 standards. The maximum permitted lot coverage by buildings is sixty percent (60%), and the maximum building height is 35 feet.

Compliance with setbacks, lot coverage, and building height standards will be reviewed in conjunction with the future building permit for each lot.

Subsection (F)(1) requires that the applicable infill development standards shall be recorded as a deed restriction with the final plat as a condition of approval. (see Condition D-2.a.)

Finding 2 Neighborhood Meeting

Under Tier 2 infill requirements, a neighborhood meeting organized by the applicant is required to be held prior to submittal of the subdivision application. The meeting shall be held in accordance with the criteria in CCC 40.260.110(I)(1) and the administrative guidelines approved by the Community Development Director.

The applicant has submitted the documentation required for verification of the neighborhood meeting (see Exhibit #6, Tab 23).

Finding 3 Existing Structures

The existing structures that are proposed to be removed require a demolition permit, and asbestos control inspection requirements and regulations apply. The applicant should contact the Southwest Clean Air Agency regarding asbestos inspection and abatement requirements. (see Condition B-1.a.)

Conclusion (Land Use):

Staff concludes that the proposed preliminary plan, subject to conditions referenced above, meets the land use requirements of the Clark County Code.

ARCHAEOLOGY:

Finding 4 Archaeological Predetermination

Much of the property is designated on the county archaeological predictive model maps as having a Moderate (40-60%) probability for containing artifacts, and archaeological site buffers extend onto the property. The proposal has high ground disturbance impacts. Therefore, in accordance with CCC Table 40.570.080-1, an archaeological predetermination was required.

The applicant has submitted an archaeological pre-determination to the State Department of Archaeology and Historic Preservation (DAHP) prior to submittal of the application.

The DAHP concurs with the recommendation of the pre-determination that no additional studies are necessary; however, a note on the final construction plans will require that if resources are discovered during ground disturbance, work shall stop and DAHP and the county will be contacted. (see Condition A-1.a.)

Conclusion (Archaeology):

Staff finds that the proposed preliminary plan, subject to the condition referenced above, meets the archaeology requirements of the Clark County Code.

HABITAT:

Finding 5 Habitat Conservation Ordinance

The site contains an area that meets the Washington Department of Fish and Wildlife (WDF&W) definition of "Oregon White Oak Woodlands". CCC 40.440.010(C)(4) states "official habitat area definitions shall prevail over countywide mapping in determining applicability of this chapter." The stand observed on this property conforms to this WDF&W definition. Three protected Oregon White Oak trees exist in the project site. Two of these are mapped in the preliminary plans and described in the Arborist Report dated June 28, 2009 – one at the eastern end of Lot 7 of Skyview Heights West and another at the western end of Lot 10 of Skyview Heights East. The third oak is not shown on the preliminary plat but is documented in a sketch map drawn by the certified arborist dated October 21, 2009 (Exhibit #14). The third oak is located in the northwest corner of parcel number 117895-122 and extends a portion of its canopy into the project site.

Staff visited the site and confirmed the locations of these three trees on October 19 and 28, 2009.

The Habitat Conservation Ordinance (HCO) protects fish and wildlife through regulations, education, and voluntary stewardship opportunities. It requires leaving habitat that retains the same biological functions and values as are currently present on the site (CCC 40.440.020(A)(2)(a)). Functions and values present on the subject parcel include, but are not limited to, microclimate maintenance, dead and down woody debris, organic matter and nutrient contributions to the food web, thermal and hiding cover for wildlife, wildlife breeding and dispersal areas, and nesting habitat for resident and neotropical avifauna. As a result, protection of these oak woodlands is very important in terms of compliance with the HCO.

Finding 6 Mitigation Plan

The applicant proposes to improve an existing gravel driveway by widening and paving it (NE 24th Court). The proposed construction will impact portions of the root zones of all three existing on-site Oregon White Oak trees (see Finding 5 above). The applicant submitted a Revised Arborist Report dated August 11, 2009 (Exhibit #6, Tab 22) that proposes to mitigate for the impacts by protecting portions of the

trees and by planting native shrubs within the protected root zones of the trees. The proposed mitigation does not consider impacts to the third oak tree which was mapped later. Staff finds that the proposed mitigation will be adequate to maintain habitat functions on the site if certain conditions are met.

Staff also finds it necessary to require specific language to be incorporated in the Habitat Conservation Covenant. Said language will clearly prohibit adjacent lot owners from clearing native vegetation, dumping yard wastes, grading within the dripline or limbing of protected trees, and conducting any other activities in the habitat area, or on lots with protected trees, with a potential to degrade habitat functionality. Additionally, this covenant language needs to be reiterated as a plat note in order to notify contractors and/or lot owners of their regulatory limitations and stewardship obligations. (see Conditions A-1.b, B-1, D-3, & H-1)

Conclusion (Habitat):

Staff finds that the proposed preliminary plan, subject to the conditions referenced above, can comply with the Habitat Ordinance requirements of CCC 40.440.

TRANSPORTATION:

Finding 7 Pedestrian/bicycle Circulation

Pedestrian circulation facilities in compliance with the Americans with Disabilities Act are required in accordance with the provisions of Section CCC 40.350.010. The proposal meets the pedestrian circulation code.

Finding 8 Cross-Circulation

The applicant submitted a cross circulation plan. The applicant indicates that circulation is not feasible to the east due to a number of white oak trees present on the parcel. Furthermore, the applicant has certified sufficient sight distance exists at the location of the proposed intersection with NE 144th Street (see Finding 10 below). If circulation were not feasible at that location, the applicant would have to either provide mitigation or an access at another location along NE 144th Street. Therefore, the project complies with the circulation plan requirements, CCC 40.350.030(B)(2).

Finding 9 Roads

NE 144th Street is an "Urban Neighborhood Circulator". The minimum half-width requirements include 27 feet of right-of-way, 18 feet of paved width, curb, gutter, and 5-foot sidewalk; and the applicant has proposed those improvements. Per table 40.350.030-4, the proposed intersection curb return radii at the approach to NE 144th Street shall be at least 25 feet. (see Condition A-2.a.)

The applicant proposes a private roadway that is to comply with standard drawing #17A, an "Urban Private Road". The minimum improvements include 20 feet of paved width, a 5-foot sidewalk, curbs, and gutters. The road will be privately maintained. (see Conditions D-2.d. & e.)

Private roads are to be designed to meet minimum public road standards. The proposed preliminary plat does not show the centerline radius for the onsite private

road. Staff recommends the on-site private road meet a centerline radius of at least 70 feet.

Per CCC 40.350.030(B)(4)(b)(1)(b), corner lot driveways shall have a minimum separation of 50 feet from the intersecting property lines or, where this is impractical, the driveway may be located 5 feet from the property line away from the intersection, or as a joint use driveway at this property line. (see Condition A-2.b.)

Finding 10 Sight Distance

The applicant submitted a sight distance analysis dated December 16, 2009 that indicates the sight distance standard was met at the location of the proposed intersection of NE 24th Avenue and NE 144th Street.

The approval criteria for sight distances are found in CCC 40.350.030(B)(8). This section establishes minimum sight distances at intersections and driveways. Additional building setbacks may be required for corner lots in order to maintain adequate sight distance. The final engineering plans shall show sight distance triangles for all corner lots. Landscaping, trees, utility poles, and miscellaneous structures will not be allowed to impede required sight distance requirements at all proposed driveway approaches and intersections. (see Condition A-2.c.)

Conclusion (Transportation):

Staff concludes that the proposed preliminary plan, subject to conditions referenced above, meets the transportation requirements of the Clark County Code.

STORMWATER:

Finding 11 Applicability

The project is an infill development subject to the Stormwater and Erosion Control Ordinance (CCC 40.380). Projects that meet the eligibility requirements of CCC 40.260.110(B)(1) and create less than 5,000 square feet of new impervious surface area are exempt from CCC 40.380.040(B) and CCC 40.380.040(C). Houses that utilize roof downspout systems to infiltrate roof runoff may be deducted from area calculations. The applicant has correctly stated that the amount of proposed impervious area that will be created is more than 5,000 square feet; therefore CCC 40.380.040(B) and CCC 40.380.040(C) do apply.

Finding 12 Stormwater Proposal

The applicant has submitted a preliminary stormwater report dated June 30, 2009, which indicates that StormFilters (Contech Stormwater Solutions) and detention facilities will be utilized. These facilities are to be privately owned and maintained. (see Condition A-4.d.)

The site currently receives runoff from properties to the east and north. The proposed facilities were designed to accommodate existing flows from those offsite areas. A downstream analysis is included in the preliminary stormwater plan.

The preliminary stormwater report identifies a 100-year/24-hour storm precipitation depth as being 4.0 inches. The 10-year/24-hour storm event precipitation depth is

3.0 inches. In addition, the 2-year/24-hour storm event precipitation depth is identified as being 2.0 inches.

Finding 13 Site Conditions and Stormwater Issues

Per CCC 40.380.040(C)(1)(g), the project shall not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. (see Condition A-4.a.)

According to CCC 40.380.050(B)(8), properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of stormwater runoff from the project site. (see Condition A-4.b.)

The curve numbers of the pervious and impervious areas shall not be averaged when sizing the water quality facility. (see Condition A-4.c.)

Conclusion (Stormwater):

Staff concludes that the proposed preliminary stormwater plan, subject to the conditions referenced above, is feasible. Therefore, the requirements of the preliminary plan review criteria are satisfied.

GEOLOGIC HAZARD AREAS:

Finding 14 Applicability

All development activities in or adjacent to (within 100 feet) geologic hazard areas shall comply with the provisions of CCC 40.430. In accordance with the county GIS mapping system, the proposed development is within 100 feet of slope instability and adjacent to a severe erosion hazard area. The provisions of CCC 40.430, therefore, apply to this development.

Finding 15 Geologic Hazard Issues

The applicant submitted a preliminary geotechnical report dated January 12, 2009. The proposed project shall implement the recommendations identified in the preliminary geotechnical report unless further studies present new or different facts. (see Condition A-5.a.)

A building permit is required for retaining walls greater than 4 feet tall or when the wall is surcharged. All retaining walls shall be shown in sufficient detail on the engineering plans for staff to assess their impact on adjacent roads, structures, and public and private utilities. (see Condition A-5.b.)

During construction, the geotechnical engineer shall certify that work performed is consistent with his recommendations and certify that there are no safety concerns. (see Condition C-1)

Conclusion (Geologic Hazard Area)

Based upon the development site characteristics, the proposed geotechnical plan, the requirements of the County's geologic hazard areas ordinance, and findings above, staff concludes that the proposed preliminary geotechnical engineering plan, subject to

conditions cited above, is feasible. Therefore, the requirements of the preliminary plan review criteria are satisfied.

FIRE PROTECTION:

Finding 16 Fire Marshal Review

This application was reviewed by Tom Scott in the Fire Marshal's Office. Tom can be reached at (360) 397-2375 x4095 or 3323. Information can be faxed to Tom at (360) 759-6063. Where there are difficulties in meeting these conditions or if additional information is required, contact Tom in the Fire Marshal's office immediately.

Finding 17 Building Construction

Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process.

Finding 18 Fire Flow

Fire flow in the amount of 1,000 gallons per minute supplied at 20 psi for 60 minutes duration is required for this application. Information from the water purveyor indicates that the required fire flow is available at the site and is estimated at 1,500 gpm.

Finding 19 Fire Hydrants

Fire hydrants are required for this application. The indicated new fire hydrant is adequate.

Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around the circumference of all fire hydrants. The local fire district chief approves the exact locations of fire hydrants. As a condition of approval, contact Fire District 6 at 360-576-1195 to arrange for location approval. (see Condition A-9.a.)

Finding 20 Fire Access and Maneuvering

The roadways and maneuvering areas as indicated in the application meet the requirements of the Clark County Road Standards.

Provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface and capable of supporting the imposed loads of fire apparatus.

Fire apparatus turnarounds are required and meet the requirements of the Road Standards.

Parallel parking is prohibited on streets that are less than twenty-four (24) feet wide. Streets that are less than twenty-four (24) feet wide shall be posted "NO PARKING". (see Condition C-2)

Conclusion (Fire Protection):

Staff finds that the proposed preliminary plan, subject to conditions referenced above, meets the fire protection requirements of the Clark County Code.

WATER & SEWER SERVICE:**Finding 21 Utilities**

In accordance with CCC 40.370.010(D), the new lots are required to be connected to public water and sewer. The site is within the Clark Public Utilities service area for public water and Clark Regional Wastewater District for public sewer service. The applicant submitted current utility reviews from the purveyors confirming that services are available to the site, and describing the connection requirements.

Prior to final plat approval, the applicant shall provide documentation from the purveyors that water and sewer connections to the new lots have been installed and approved. (see Condition D-1)

Finding 22 Health Department

The applicant submitted a development review evaluation from the Clark County Health Department dated November 17, 2008 (Exhibit #6, Tab 20). The review covers both the site and the Skyview Heights West site. The document states that a separate evaluation will be required if the parcels develop as two separate land divisions; therefore, the applicant may need to apply for an additional development review evaluation before the Health Department will sign off on the final plat.

The development review evaluation indicates that a well probably exists on the site and must be properly decommissioned, and that any septic systems discovered that have not been properly abandoned must be. (see Conditions B-1.e. & D-4)

IMPACT FEES:**Finding 23 Impact Fees**

The additional residential lots created by this plat will produce impacts on schools, parks, and traffic, and are subject to School (SIF), Park (PIF), and Traffic Impact Fees (TIF) in accordance with CCC 40.610.

The site is within:

- Vancouver School District, with a SIF of \$1,112.00 per dwelling
- Park District #10, with a PIF of \$1,534.00 per dwelling (\$1,094 for park acquisition / \$440 for park development).
- Mt Vista subarea with a TIF of \$5,344.37 per dwelling.

Impact fees shall be paid prior to issuance of a building permit for each new lot; provided that one lot, to be identified on the face of the final plat, shall be exempt in exchange for the existing dwelling being removed.

If a building permit application is made more than three years following the date of preliminary plat approval, the impact fees will be recalculated according to the then-current ordinance rate. (see Conditions D-2.g. & E-1)

SEPA DETERMINATION

As lead agency under the State Environmental Policy Act (SEPA) Rules [Chapter 197-11, Washington Administrative Code (WAC)], Clark County must determine if there are possible significant adverse environmental impacts associated with this proposal. The options include the following:

- **DS = Determination of Significance** (The impacts cannot be mitigated through conditions of approval therefore, requiring the preparation of an Environmental Impact Statement (EIS);
- **MDNS = Mitigated Determination of Non-Significance** (The impacts can be addressed through conditions of approval); or,
- **DNS = Determination of Non-Significance** (The impacts can be addressed by applying the County Code).

Determination:

Determination of Non-Significance (DNS). As lead agency, the county has determined that the requirements for environmental analysis, protection, and mitigation measures are adequately addressed in the development regulations and comprehensive plan adopted under chapter 36.70A RCW, and in other applicable local, state, or federal laws rules, as provided by RCW 43.21.240 and WAC 197-11-158. Our agency will not require any additional mitigation measures under SEPA. The proposal may include mitigation under applicable codes and the project review. This decision was made after review of a completed environmental checklist and other information on file with the County.

The likely SEPA determination of Non-Significance (DNS) in the Notice of Development Review Application issued on October 8, 2009 is hereby final.

SEPA Appeal Process:

An **appeal** of this SEPA determination and any required mitigation must be filed with the Community Development Department within fourteen (14) calendar days from the date of this notice. The SEPA appeal fee is **\$1,493**.

A **procedural appeal** is an appeal of the determination (i.e., determination of significance, determination of non-significance, or mitigated determination of non-significance). A **substantive appeal** is an appeal of the conditions required to mitigate for probable significant issues not adequately addressed by existing County Code or other law.

Issues of compliance with existing approval standards and criteria can still be addressed in the public hearing without an appeal of this SEPA determination.

Both the **procedural and substantive appeals** must be filed within fourteen (14) calendar days of this determination. Such appeals will be considered in the scheduled public hearing and decided by the Hearing Examiner in a subsequent written decision.

Appeals must be in writing and contain the following information:

1. The case number designated by the County and the name of the applicant;
2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 40.510.030(H) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager. All contact with the Development Services Manager regarding the petition, including notice, shall be with this contact person;
3. A brief statement describing why the SEPA determination is in error.

The decision of the Hearing Examiner is final unless there is:

- A motion if filed for reconsideration within fourteen (14) days of written notice of the decision, as provided under Clark County Code, Section 251.160; or,
- An appeal with Clark County Superior Court.

Staff Contact Person: Alan Boguslawski, Planner II
(360) 397-2375 ext 4921

Responsible Official: Michael V. Butts

**Public Service Center
Community Development Department
1300 Franklin Street
P.O. Box 9810
Vancouver, WA 98666-9810
Phone: (360) 397-2375; Fax: (360) 397-2011
Web Page at: <http://www.clark.wa.gov>**

RECOMMENDATION

Based upon the proposed plan (identified as Exhibit #5), and the findings and conclusions stated above, staff recommends the Hearings Examiner **APPROVE** this request, subject to the understanding that the applicant is required to adhere to all applicable codes and laws, and is subject to the following conditions of approval:

Conditions of Approval

A Final Construction Plan Review for Land Division Review & Approval Authority: Development Engineering

Prior to construction, a Final Construction Plan shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

A-1 Final Construction Plan – The applicant shall submit and obtain County approval of a final construction plan in conformance to CCC 40.350 and the following conditions of approval:

a. Archaeology - A note shall be placed on the face of the final construction plan as follows:

"If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, all work in the vicinity shall cease and the Department of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."

(see Finding 4)

b. Habitat Plan:

1) The applicant shall implement the mitigation measures proposed in the Arborist Report, Skyview Heights East West Subdivision, Revised August 11, 2009, except the plan shall be revised to include mitigation for impacts to the third oak tree.

2) Locations of the protected trees (driplines) and planting areas shall be shown on the face of the plans.

3) The applicant shall record a Habitat Conservation Covenant protecting the planted and existing oak trees. The Habitat Conservation Covenant shall specifically prohibit the clearing of native vegetation (both dead or alive), the removal of dead or downed woody debris, the dumping of yard wastes, grading or placing of fill within the dripline or limbing of protected trees, and any other physical alteration of the land that degrades habitat functionality within the driplines of protected trees on individual lots.

(see Finding 6)

A-2 Final Transportation Plan/On-Site - The applicant shall submit and obtain County approval of a final transportation design in conformance to CCC 40.350 and the following conditions of approval:

a. Per table 40.350.030-4, the proposed intersection curb return radii at the approach to NE 144th Street shall be at least 25 feet. (see Finding 9)

- b. Per CCC 40.350.030(B)(4)(b)(1)(b), corner lot driveways shall have a minimum separation of 50 feet from the intersecting property lines or, where this is impractical, the driveway may be located 5 feet from the property line away from the intersection, or as a joint use driveway at this property line. (see Finding 9)
- c. The project shall comply with the sight distance standards of CCC 40.350.030(B)(8). (see Finding 10)

A-3 Transportation:

- a. Signing and Striping Plan: The applicant shall submit a signing and striping plan and a reimbursable work order, authorizing County Road Operations to perform any signing and pavement striping required within the County right-of-way. This plan and work order shall be approved by the Department of Public Works prior to final plat or final site plan approval.
- b. Traffic Control Plan: Prior to issuance of any building or grading permits for the development site, the applicant shall obtain written approval from Clark County Department of Public Works of the applicant's Traffic Control Plan (TCP). The TCP shall govern all work within or impacting the public transportation system.

A-4 Final Stormwater Plan - The applicant shall submit and obtain County approval of a final stormwater plan designed in conformance to CCC 40.380 and the following conditions of approval (see Finding 13):

- a. Per CCC 40.380.040(C)(1)(g), the project shall not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots.
- b. Per CCC 40.380.050 (B)(8), properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of stormwater runoff from the project site.
- c. The curve numbers of the pervious and impervious areas shall not be averaged when sizing the water quality facility.
- d. Per CCC 40.380.040(H)(3)(b)(2), an easement or a covenant acceptable to the responsible official shall be provided to the county for purposes of inspection of privately maintained facilities.

A-5 Geologic Hazard Areas – The applicant shall submit and obtain County approval of a final geotechnical engineering plan designed in accordance with CCC 40.430 and the following conditions of approval (see Finding 15):

- a. The proposed project shall implement the recommendations identified in the preliminary geotechnical report unless further studies present new or different facts. A recommended setback from the top of the adjacent slope shall be clearly depicted on the engineering plans.
- b. A building permit is required for retaining walls greater than 4 feet tall or when the wall is intended to support unbalanced fill or a surcharge. All retaining walls shall be shown in sufficient detail on the engineering plans for staff to assess their impact on adjacent roads, structures, and public and private utilities.

A-6 Other Required Documents: – The following documents shall be submitted with the Final Construction Plan:

- a. Developer's Covenant: - A "Developer Covenant to Clark County" shall be submitted for recording that specifies the following Responsibility for Stormwater Facility Maintenance: For stormwater facilities for which the county will not provide long-term maintenance, the developer shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance to the county's Stormwater Facilities Maintenance Manual as adopted by Chapter 13.26A. The responsible official prior to county approval of the final stormwater plan shall approve such arrangements. The county may inspect privately maintained facilities for compliance with the requirements of this chapter. An access easement to the private facilities for the purpose of inspection shall be granted to the county. If the parties responsible for long-term maintenance fail to maintain their facilities to acceptable standards, the county shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the county shall take enforcement action and recover from parties responsible for the maintenance in accordance with Section 32.04.060.

A-7 Erosion Control Plan - The applicant shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC 40.380.

A-8 Excavation and Grading - Excavation / grading shall be performed in compliance with CCC Chapter 14.07.

A-9 Fire Marshal Requirements:

- a. Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. A 3-foot clear space shall be maintained around the circumference of all fire hydrants. The local fire district chief approves the exact locations of fire hydrants. As a condition of approval, contact Fire District 6 at 360-576-1195 to arrange for location approval. (see Finding19)

B	Prior to Construction of Development Review & Approval Authority: Development Inspection
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Prior to construction, the following conditions shall be met:

B-1 Pre-Construction Conference - Prior to construction or issuance of any grading or building permits, a pre-construction conference shall be held with the County, and:

- a. **Demolition Permit** - The applicant shall obtain a demolition permit from the Clark County Building Department prior to removal of any existing structures. (see Finding 3)
- b. The applicant shall install tree protection fencing encompassing the remaining driplines of the three protected Oregon white oak trees. (see Finding 6)
- c. Locations of tree protection fencing shall be clearly identified on the Engineering Construction Plans set. (see Finding 6)
- d. The applicant shall record a Habitat Conservation Covenant protecting the planted and existing oak trees. The Habitat Conservation Covenant shall specifically prohibit the clearing of native vegetation (both dead or alive), the removal of dead or downed woody debris, the dumping of yard wastes, grading or placing of fill within the dripline or limbing of protected trees, and any other physical alteration of the land that degrades habitat functionality within the driplines of protected trees on individual lots. (see Finding 6)
- e. **Health Department Requirements** – Prior to construction, any existing wells or septic tanks on the site shall be decommissioned and properly abandoned in accordance with state law and the procedures of the Clark County Health Department. (see Finding 22)

B-2 Erosion Control - Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and any erosion potential no longer exists.

B-3 Erosion Control - Erosion control facilities shall not be removed without County approval.

C	Provisional Acceptance of Development Review & Approval Authority: Development Inspection
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Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction/site plan and the following conditions of approval:

C-1 Geologic Hazard Areas - During construction, the applicant's geotechnical engineer shall certify that work performed is consistent with his/her recommendations and certify that there are no safety concerns associated with the proposed improvements. (see Finding 15)

- C-2 Fire Marshal Requirements** - Parallel parking is prohibited on streets that are less than twenty-four (24) feet wide. Streets that are less than twenty-four (24) feet wide shall be posted "NO PARKING". (see Finding 20)

D	Final Plat Review & Recording Review & Approval Authority: Development Engineering
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Prior to final plat approval and recording, the following conditions shall be met:

- D-1 Utilities** – Prior to final plat approval, water and sewer connections shall be installed by the developer and approved by the Clark Public Utilities and Clark Regional Wastewater District, respectively. (see Finding 21)
- D-2 Developer Covenant** – A "Developer Covenant to Clark County" shall be submitted for recording to include the following:
- a. Development on Infill Parcels: "All development on infill parcels created pursuant to Section 40.260.110 shall be subject to the standards for Infill Development. The following applicable Infill Development Standards shall be included in the Developer Covenants to Clark County (see Finding 1):
 - (1) 10 feet – minimum rear setback
 - (2) 10 feet – minimum front setback; except,
 - (3) 18 feet – minimum garage door setback
 - (4) 5 feet – minimum side setback
 - (5) 10 feet – minimum street side setback (applicable to Lot 1)
 - (6) 60% - maximum lot coverage"
 - b. Critical Aquifer Recharge Areas: "The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."
 - c. Erosion Control - "Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction."
 - d. Private Road Maintenance Covenant – A private road maintenance covenant shall be submitted to the responsible official for approval and recorded with the County Auditor. The covenant shall set out the terms and conditions of responsibility for maintenance, maintenance methods, standards, distribution of expenses, remedies for noncompliance with the terms of the agreement, right of use easements, and other considerations, as required under 40.350.030(C)(4)(g). (see Finding 9)
 - e. Private Roads: "Clark County has no responsibility to improve or maintain the private roads contained within or private roads providing access to the property described in this development. Any private access street shall remain a private street, unless it is upgraded to meet applicable current road

standards at the expense of the developer or abutting lot owners to include hard surface paving and is accepted by the county for public ownership and maintenance." (see Finding 9)

- f. Responsibility for Stormwater Facility Maintenance: For stormwater facilities for which the county will not provide long-term maintenance, the developer shall make arrangements with the existing or future (as appropriate) occupants or owners of the subject property for assumption of maintenance to the county's Stormwater Facilities Maintenance Manual as adopted by Chapter 13.26A. The responsible official prior to county approval of the final stormwater plan shall approve such arrangements. Final plats shall specify the party(s) responsible for long-term maintenance of stormwater facilities within the Developer Covenants to Clark County. The county may inspect privately maintained facilities for compliance with the requirements of this chapter. If the parties responsible for long-term maintenance fail to maintain their facilities to acceptable standards, the county shall issue a written notice specifying required actions to be taken in order to bring the facilities into compliance. If these actions are not performed in a timely manner, the county shall take enforcement action and recover from parties responsible for the maintenance in accordance with Section 32.04.060.
- g. Impact Fees: "In accordance with CCC 40.610, the School, Park and Traffic Impact Fees for each dwelling in this subdivision (except for one lot to be identified on the final plat as exempt) are: \$1,112.00 (Vancouver School District), \$1,534.00 (\$1,094 - Acquisition; \$440 - Development for Park District #10), and \$5,344.37 (Mt Vista TIF Subarea), respectively. The impact fees for lots on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated [REDACTED], and expiring on [REDACTED]. Impact fees for permits applied for following said expiration date shall be recalculated using the then-current regulations and fees schedule." (see Finding 23)

D-3 Plat Notes - The following notes shall be placed on the final plat:

- a. Habitat: "Clearing native vegetation, planting non-native vegetation, construction or development of any kind, the dumping of yard wastes, and any other physical alteration of the land determined injurious by the Planning Director, is expressly prohibited as per Conservation Covenant # [REDACTED] in the habitat area or within the dripline of protected trees on individual lots." (see Finding 6)
- b. Habitat: "No removal or limbing of protected trees for purposes of construction of the development shall be allowed." (see Finding 6)
- c. Habitat: "No grading within the dripline of protected trees for purposes of construction of the development shall be allowed." (see Finding 6)
- d. Mobile Homes: "In accordance with the provisions of CCC 40.260.130, mobile homes are prohibited on the lots in this plat."

- e. Archaeological: "If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."
- f. Utilities: "An easement is hereby reserved under and upon the exterior six (6) feet at the front boundary lines of all lots for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable, water and sanitary sewer services. Also, a sidewalk easement, as necessary to comply with ADA slope requirements, shall be reserved upon the exterior six (6) feet along the front boundary lines of all lots adjacent to public streets."
- g. Driveways: "All residential driveway approaches entering public roads are required to comply with CCC 40.350."
- h. Privately Owned Stormwater Facilities: "The following party(s) is responsible for long-term maintenance of the privately owned stormwater facilities: _____."

D-4 Abandonment of On-Site Water Wells and Sewage Systems – The location of any abandoned septic tanks and decommissioned wells shall be shown on the face of the final plat. (see Finding 22)

E	Building Permits
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	Review & Approval Authority: Customer Service
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Prior to issuance of a building permit, the following conditions shall be met:

E-1 Impact Fees – Except for one lot to be identified on the face of the final plat as exempt, the applicant shall pay impact fees as follows:

- a. \$1,112.00 per dwelling for School Impact Fees (Vancouver School Dist.)
- b. \$1,534.00 per dwelling for Park Impact Fees (\$1,094 – Acquisition; \$440 – Development for Park District #10)
- c. \$5,344.37 per dwelling for Traffic Impact Fees (Mt Vista TIF Subarea)

If the building permit application is made more than three years following the date of preliminary plat approval, the impact fees shall be recalculated according to the then-current rate. (see Finding 23)

F	Occupancy Permits
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	Review & Approval Authority: Building
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Prior to issuance of an occupancy permit, the following conditions shall be met:

F-1 None

G	Development Review Timelines & Advisory Information Review & Approval Authority: None - Advisory to Applicant
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G-1 Land Division - Within 5 years of preliminary plat approval, a Fully Complete application for Final Plat review shall be submitted.

G-2 Department of Ecology Permit for Construction Stormwater - A permit from the Department of Ecology (DOE) is required If:

- The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; **AND**
- There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or in a multiphase project will count toward the one acre threshold. This applies even if the applicant is responsible for only a small portion [less than one acre] of the larger project planned over time. **The applicant shall Contact the DOE for further information.**

H	Post Development Requirements Review & Approval Authority: As specified below
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H-1 Habitat Requirements: (see Finding 6)

- a. The applicant shall continue to maintain and monitor the oak plantings on the south and west edges of the Skyview Heights West site, per HAB2007-00047.
- b. The applicant shall ensure an 80% survival rate for all installed vegetation for a period of 3 years.
- c. For the duration of the 3-year monitoring period, the applicant shall apply for annual monitoring permit inspections and pay appropriate fees.

<p>Note: Any additional information submitted by the applicant within fourteen (14) calendar days prior to or after issuance of this report, may not be considered due to time constraints. In order for such additional information to be considered, the applicant may be required to request a “hearing extension” or “open record” and shall pay the associated fee.</p>

HEARING EXAMINER DECISION AND APPEAL PROCESS

This report to the Hearings Examiner is a recommendation from the Development Services Division of Clark County, Washington.

The Examiner may adopt, modify or reject this recommendation. The Examiner will render a decision within 14 calendar days of closing the public hearing. The County will mail a copy of the decision to the applicant and neighborhood association within 7 days of receipt from the Hearings Examiner. All parties of record will receive a notice of the final decision within 7 days of receipt from the Hearings Examiner.

Appeal Rights:

The decision of the Hearings Examiner is final unless there is:

- A motion filed for reconsideration within fourteen (14) days of written notice of the decision, as provided under Clark County Code, Section 2.51.160; or,
- An appeal is filed with Clark County Superior Court.

Attachments:

- Copy of Proposed Preliminary Plan
- Exhibit List

A copy of the approved preliminary plan, SEPA Checklist and Clark County Code are available for review at:

**Public Service Center
Community Development Department
1300 Franklin Street
P.O. Box 9810
Vancouver, WA 98666-9810
Phone: (360) 397-2375; Fax: (360) 397-2011**

A copy of the Clark County Code is also available on our Web Page at:
Web Page at: <http://www.clark.wa.gov>

Final Decision Attachment

For Employee Use Only - This is not part of the decision, but rather an attachment for processing purposes only.

Final Plans Required with Construction Plans	YES	NO
Final Landscape Plan:		
-On-site landscape plan		X
-Right-of-way landscape plan*		X
Final Wetland Plan		X
Final Habitat Plan	X	

*Final right-of-way landscape plan required for projects fronting on arterial and collector streets.

Note: If final plan submittals are required, list each plan under Case Notes in Permit Plan for future reference.

Building Setbacks Established at Preliminary Plan Review

Project Name: Skyview Heights East

Case Number: PLD2009-00038

The following minimum building setback requirements are based upon the zoning in place at the time, or setbacks as otherwise approved through preliminary plan review of the above listed project.

Setback Requirements by Lot

Lot Number(s)	Front Setback	Garage Setback	Rear Setback	Side Setback	Street-side Setback
1	10'	18'	10'	5'	10'
2-10	10'	18'	10'	5'	N/A



HEARING EXAMINER EXHIBITS

APPLICATION: Skyview Heights East Tier II

CASE NUMBER: PLD2009-00038

Hearing Date: December 10, 2009

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
1		CC Development Services	Aerial Map
2		CC Development Services	Vicinity Map
3		CC Development Services	Zoning Map
4		CC Development Services	Comprehensive Plan Map
5	6/30/09	Applicant: PLS Engineering	Full Size Plans
6	6/30/09	Applicant: PLS Engineering	Application Packet; Cover Sheet, Table of Contents, Application Forms, Pre App Rpt, GIS Packet, Narrative, Legal Lot Determination, Approved Plats Abutting Site, Boundary Survey, Soil Rpt, Pre Drainage Rpt, Engineer Statement of Completeness, Circulation Plan, Traffic Study, SEPA, ARC, Utility Letters, CC&R's, Geo Hazard Study, Arborist Rpt, Infill Development Submittal Items
7	7/21/09	CC Development Services	Development Review NOT Fully Complete Determination
8	9/24/09	CC Development Services	Development Review Fully Complete Determination
9	10/8/09	CC Development Services	Notice of Type II Dev Review, Optional SEPA and Public Hearing
10	10/8/09	CC Development Services	Affidavit of Mailing Notice
11	10/13/09	Southwest Clean Air Agency	Agency comments
12	10/23/09	Department of Ecology	Agency comments
13	11/9/09	Applicant: PLS Engineering	Affidavit of posting sign
14	10/28/09	Applicant's Arborist	Revised sketch map of oak trees
15	11/17/09	CC Development Services	Notice of Public Hearing
16	11/25/09	CC Development Services	Staff Report Written by Alan Boguslawski
17	11/25/09	CC Development Services	Affidavit of Posting

